
(2016) 07 P&H CK 0046
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 2225 of 2001.(O&M)

Union of India

APPELLANT

Vs

Punjab State Electricity Board

RESPONDENT

Date of Decision : 13-07-2016

Acts Referred:

Constitution of India, 1950 — Article 287

Citation : (2017) 1 PLR 237

Hon'ble Judges : Mr. Harinder Singh Sidhu and Mr. Rajesh Bindal, JJ.

Bench : Division Bench

Advocate : None, for the Petitioner; Ms. Sudeepti Sharma, Deputy Advocate General, Punjab, for the Respondent

Final Decision : Disposed Off

Judgement

Rajesh Bindal, J. - Aggrieved against the action of the erstwhile Punjab State Electricity Board (for short, "the Board") demanding octroi on electricity consumed by the petitioner, namely, Union of India, the same has been challenged by filing the present petition.

2. The case was shown up in the taken up list number of times. None appeared for the petitioner or even the Board, whose action is under challenge. The paper book was perused and the case is being decided, as only legal issue is involved.

3. The petitioner raising the issue sent a communication on 29.5.1998 to the Chairman of the Board, which was followed by another letter dated 14.7.1998. In response thereto, the Board responded by stating that octroi is being collected on behalf of the Municipal Committee and in case the petitioner has any grievance, the matter may be taken up with the Municipal Committee. Thereafter, the matter was taken up by the petitioner with Municipal Corporation, Jalandhar stating that in view of the bar contained in Article 287 of the Constitution of India, no tax can be levied on the Government of India by any State or its authority. A request was made to issue a certificate that Jalandhar

Cantt. area does not fall within the jurisdiction of Municipal Corporation. The same was replied to by the Municipal Corporation vide communication dated 26.8.1999 (Annexure P- 4) informing the petitioner that area of Jalandhar Cantt. (Cantonment Board) is outside the limit of Municipal Corporation. Immediately thereafter, vide letter dated 7.9.1999, the petitioner requested the Executive Engineer (Operation) of the Board to stop charging octroi on the tariff bills. Subsequently, reminders were also sent. Vide communication dated 20.6.2000, the petitioner was informed by the Assistant Executive Engineer of the Board that there is no relaxation to any type of consumers, however, the matter has been referred to higher authorities for clarification. The petitioner has also placed on record communication dated 1.6.2000 from Garrison Engineer (East) of the Board stating that in Ferozepur area, the Board was not charging octroi on the bills.

4. Reply to the petition has not been filed by the Board, however, respondent No. 4-Municipal Corporation, Jalandhar has filed the reply. It is specifically stated therein that the Municipal Corporation is not charging any octroi from the petitioner for any goods brought in local area. Further, it was stated that there is nothing on record to suggest that octroi is being taken by the Municipal Corporation from the Board for sale of electricity to the Government of India within its local area and further that the Cantonment Board area is outside the municipal limits of the Municipal Corporation. Meaning thereby, the case set up by the petitioner was conceded by the Municipal Corporation stating that no octroi is being charged from the petitioner and further that even the area of the petitioner does not fall within the municipal limits. Article 287 of the Constitution of India provides that no State shall impose tax on the consumption or sale of electricity to Union of India.

5. Besides the aforesaid bar being there in the Constitution of India regarding levy of octroi on consumption of electricity by the Government of India, once the definite case of the Municipal Corporation is that even the area of the petitioner, where the electricity is being consumed, does not fall within the municipal limits, hence, there could not be any demand of octroi from the petitioner. Hence, the action of the respondents in raising demand of octroi from the petitioner on account of consumption of electricity is declared illegal.

The writ petition stands disposed of accordingly.